

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 1999-232-C-ORDER NO. 1999-627

SEPTEMBER 2, 1999

IN RE: Application of CI², Incorporated for a Certificate of Public Convenience And Necessity to Provide Local Exchange and Interexchange Telecommunications Services Within the State of South Carolina and For Flexible Regulation) ORDER *✓ NR*
) GRANTING
) CERTIFICATE
)

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of CI², Incorporated ("CI²" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide both local exchange and long distance resold telecommunications services within the State of South Carolina. CI² also requested that its local exchange telecommunications services be regulated in accordance with the principles and procedures established for flexible regulation by Order 98-165 in Docket No. 97-467-C.

By letter, the Commission's Executive Director instructed CI² to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. CI² complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). At the hearing on August 18, 1999, M. John Bowen, Esquire and Margaret M. Fox, Esquire represented the SCTC. The Stipulation entered into by CI² and the SCTC was marked as a Hearing Exhibit and entered into the evidence of the case. Thereafter, the SCTC withdrew its

witness, Mr. L.B. Spearman, and remained a party of record. In the Stipulation, CI² stipulates and agrees that any Certificate which may be granted will authorize the Company to provide service only to customers located in non-rural areas of South Carolina or to U.S. Army Reserve sites in South Carolina. Further, CI² stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, other than a U.S. Army Reserve site, unless and until CI² provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. CI² agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on August 18, 1999, at 10:30 a.m., in the Commission's Hearing Room. The Honorable Philip T. Bradley, presided. CI² was not represented by counsel. SCTC was represented by M. John Bowen, Esquire and Margaret M. Fox, Esquire. Jocelyn D. Green, Staff Counsel, represented the Commission Staff.

Sharon Mendon, Vice President of Operations of CI², appeared and offered testimony in support of CI²'s application. The Company is a Georgia corporation that has been granted authority to transact business in South Carolina. CI² has been granted a contract with the United States Army Reserve (USAR) and plans to provide telecommunications services to the USAR nationwide. The Company's underlying carrier will be BellSouth and the Company has already entered into an interconnection agreement with BellSouth. The Company seeks to provide local and long distance telecommunications services in South Carolina. CI² also requests that the Commission authorize

flexible regulation of its local exchange services. Furthermore, the Company plans to offer its services to residential and business customers.

Ms. Mendon also testified about the Company's technical, financial, and managerial ability to provide telecommunications services in South Carolina. According to Ms. Mendon, CI² has massive technical capabilities at the Company's corporate headquarters in Atlanta, Georgia. The USAR will finance the telecommunications services that are provided in South Carolina. In addition, the managerial staff of CI² has several years of experience in the telecommunications arena.

The Company markets its service through its marketing offices in Washington, D.C. and through print media, radio, and federal government publications. CI² is providing its services in Alabama, Georgia, West Virginia, Montana, and Kentucky. The Company is operating in good standing in these states. The regulatory contact person for the Company is Beverly Jackson, Regulatory Manager. CI² provides its own billing services and its customer service department is operated by the Company.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. CI² is organized as a corporation under the laws of Georgia and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina as a foreign corporation.
2. CI² wishes to provide local exchange services and interexchange services within the State of South Carolina.

3. The Commission finds that CI² possesses the technical, financial, and managerial resources sufficient to provide the services requested.

4. The Commission finds that CI²'s "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1998).

5. The Commission finds that CI² will support universally available telephone service at affordable rates.

6. The Commission finds that CI² will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by CI² "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1998).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to CI² to provide competitive intrastate local exchange services only to customers located in non-rural areas of South Carolina or to U.S. Army Reserve sites in South Carolina. Any proposal to provide local exchange service to a customer other than a U.S. Army Reserve site located in a rural incumbent LEC's service area is not included in the instant grant of authority. Further, the Company is granted authority to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. CI² shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting

with South Carolina law in all matters. CI²'s local telecommunications services shall be regulated in accordance with the principles established for flexible regulation first granted to NewSouth by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for CI²'s competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously adopted by the Commission. Further, CI²'s local exchange service tariff filings shall be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. With regard to the interexchange service offerings of CI², the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. CI² shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. CI² shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 6, 1993). Any

proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1998).

5. If it has not already done so by the date of issuance of this Order, CI² shall file its revised long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. CI² is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to the Company's resale of interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. CI² shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If CI² changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, CI² shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

10. CI² shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

11. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911 system” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs CI² to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, CI², shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

12. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

CI² shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized

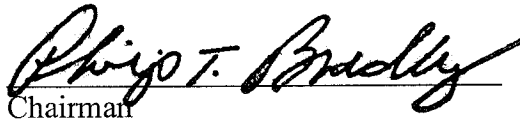
for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

13. CI² shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

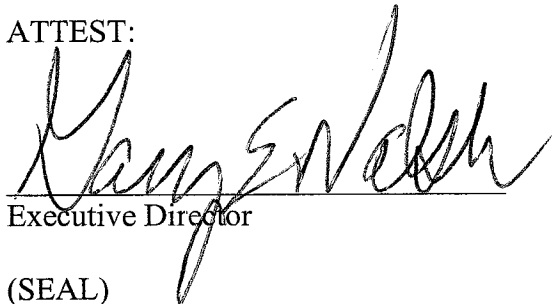
14. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

Order 1999-627
CI2, Incorporated
Order Exhibit #1

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 1999-232-C

Re: Application of CI² for a Certificate of Public
Convenience and Necessity to Provide Local
Exchange, Private Line, and Interexchange
Telecommunications Services in the State
Of South Carolina

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and CI², Inc. ("CI²") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to CI²'s Application. SCTC and CI² stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to CI², provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. CI² stipulates and agrees that any Certificate which may be granted will authorize CI² to provide service only to customers located in non-rural areas of South Carolina or to U.S. Army Reserve sites in South Carolina, except as provided herein.
3. CI² stipulates that it is not asking the Commission to make a finding at this

time regarding whether competition is in the public interest for rural areas.

4. CI² stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, other than a U.S. Army Reserve site, unless and until CI² provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, CI² acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. CI² stipulates and agrees that if, after CI² gives notice that it intends to serve a customer other than a U.S. Army Reserve site located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then CI² will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. CI² acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service

which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. CI² agrees and stipulates that any service it provides to Army Reserve sites in rural areas of South Carolina will be provided pursuant to the incumbent LEC's duties under Section 251(b) of the Telecommunications Act of 1996.

8. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

9. CI² agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

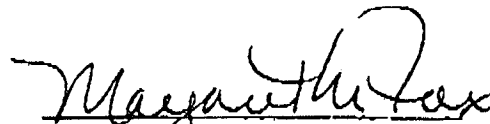
10. CI² hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 17th day of August, 1999.

CI², Inc.



South Carolina Telephone Coalition:



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Attorneys for the South Carolina

Telephone Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Fl. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company